

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Truth-in-Billing )  
and )  
Billing Format )

CC Docket No. 98-170

**Petition for Temporary, Limited Waiver**

New Lisbon Telephone Company, Inc. ("New Lisbon"),<sup>1</sup> by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup> Specifically, New Lisbon seeks temporary waiver of the requirements of Section 64.2401(a)(2) regarding separating charges by service provider (the "TIB Separate Provider Requirement").<sup>3</sup> New Lisbon seeks this waiver until April 1, 2000 because it is technically incapable of rendering a bill that complies with the TIB Separate Provider Requirement by its November 12, 1999 effective date.<sup>4</sup>

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<sup>1</sup> Attachment A contains the declaration of Wm. A. Claar, General Manager of New Lisbon. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

<sup>2</sup> In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

<sup>3</sup> In pertinent part, 47 C.F.R. § 64.2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ."

<sup>4</sup> See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

New Lisbon, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.<sup>5</sup> Moreover, New Lisbon recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, New Lisbon requests a waiver of the TIB Separate Provider Requirement until April 1, 2000.

Until the requested waiver expires, however, New Lisbon's customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers. New Lisbon respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Separate Provider Requirement will be advanced during the time that the requested waiver is necessary and in effect.

## **I. Background**

New Lisbon provides exchange and exchange access services to approximately 900 lines in Indiana. New Lisbon is a rural telephone company under the Communications Act of 1934, as amended. New Lisbon uses Communications Data Group ("CDG") as its billing vendor. In May, 1999, after the release by the FCC of its TIB Order, New Lisbon became aware of the various TIB requirements and anticipated relying upon CDG for the necessary software upgrades

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<sup>5</sup> See Public Notice, DA 99-1616, released August 13, 1999.

required by New Lisbon for TIB compliance. New Lisbon is concentrating its efforts on Year 2000 issues.

On November 3, 1999, CDG informed New Lisbon that compliance with the TIB Separate Provider Requirement would be an issue. As soon as this information was received, New Lisbon immediately investigated what specific TIB issues needed to be addressed, and what billing system software upgrades were required for compliance with the TIB Separate Provider Requirement. New Lisbon understands that an estimated delivery date for the necessary software will, according to CDG, be provided soon. Once these upgrades are received, New Lisbon will then undertake appropriate testing to ensure that such compliance is achieved. However, because of the need to comply with other TIB rules by April 1, 2000,<sup>6</sup> New Lisbon also requests a waiver until that date to comply with the TIB Separate Provider Requirements.<sup>7</sup> As explained below, the practical problems and existing billing software system limitations confronting New Lisbon associated with implementing the TIB Separate Provider Requirement make compliance infeasible by November 12, 1999.

New Lisbon seeks a waiver of TIB Separate Provider Requirement in light of its billing for non-recurring charges and credits for other carriers. New Lisbon's existing billing system currently aggregates all non-recurring charges and credits in the local section of its bill. However, because New Lisbon provides "1+" billing and collection services for carriers, these carriers' non-recurring charges and credits are printed in the same section of the bill as the non-

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<sup>6</sup> See n.4, supra.

<sup>7</sup> New Lisbon will supplement this filing once CDG confirms a delivery date for the software required by New Lisbon to comply with the TIB Requirements.

recurring charges and credits for local services offered by New Lisbon. New Lisbon notes, however, that each such charge and credit is labeled by carrier, and that customer inquiries concerning such charges have been minimal. Based on the information received by New Lisbon by CDG, New Lisbon is technically incapable of placing other carrier's non-recurring charges and credits in their respective section of the bill by November 12, 1999 as required by the TIB Separate Provider Requirement.<sup>8</sup>

**II. Good Cause Exists for and the Public Interest  
will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, New Lisbon respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, New Lisbon's software vendor will not be able to develop the necessary software required to meet the TIB Separate Provider Requirement by this date. Moreover, even assuming the availability of the software upgrades, New Lisbon would not be able to successfully test such upgrades by November 12, 1999. Although New Lisbon understands that CDG will soon be providing an expected delivery date for the necessary software, in light of the other TIB rule requirements being waived until April 1, 2000,<sup>9</sup> New Lisbon anticipates that compliance with the TIB Separate Provider Requirement should be

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<sup>8</sup> See TIB Order at para. 31.

<sup>9</sup> See n.4, supra.

possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.<sup>10</sup>

New Lisbon also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.<sup>11</sup> The software changes required by New Lisbon clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "forestall" or "roll back" disfavored regulations, or use this policy for purposes of competitive advantage<sup>12</sup> are not applicable here. New Lisbon is working with CDG toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that New Lisbon is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of

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<sup>10</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>11</sup> See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

<sup>12</sup> Id. at para. 16.

the New Lisbon; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements for other carriers in a manner consistent with the status of the overall TIB compliance efforts by New Lisbon.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.<sup>13</sup> Accordingly, the ability of New Lisbon to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary enhancements of its billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Separate Provider Requirement -- the ability of a customer to identify a carrier and make inquiry concerning a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, New Lisbon will continue to provide its local telephone number on the bill in order to allow customers to contact New Lisbon about charges.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, customers' concerns regarding carriers' non-recurring charges and credits have been minimal. Moreover, New Lisbon anticipates that its experience will not change during the time that the requested waiver is in place.

### **III. Conclusion**

Because New Lisbon is technically incapable of complying with the TIB Separate Provider Requirement by November 12, 1999, a grant of this request until April 1, 2000 should

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<sup>13</sup> See n.4, supra.

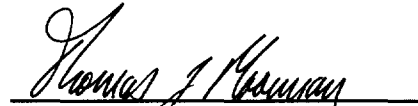
ensure that New Lisbon can implement and successfully test the billing system software upgrades required to implement the TIB Separate Provider Requirement in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of the TIB Separate Provider Requirement will not be frustrated by a grant of this request. Rather, such goals will be furthered by New Lisbon as it continues to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, New Lisbon requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(2) until April 1, 2000.

Respectfully submitted,

**New Lisbon Telephone Company**

By



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November 9, 1999

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**Declaration of Wm. A. Claar  
General Manager of  
New Lisbon Telephone Company**

I, Wm. A. Claar, General Manager of New Lisbon Telephone Company ("New Lisbon"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding New Lisbon is true and accurate to the best of my knowledge, information, and belief.

Date 11-9-99

  
\_\_\_\_\_  
Wm. A. Claar  
General Manager



## **CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of New Lisbon Telephone Company, Inc. was served on this 9th day of November, 1999 by hand delivery to the following parties:

  
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